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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the matter of  
Policies and Rules  
concerning Toll Fraud

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CC Docket No. 93-292

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**JAN 14 1994**

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**COMMENTS OF LinkUSA**

Steven J. Hogan  
President  
LinkUSA Corporation  
230 Second Street S.E.  
Suite 400  
Cedar Rapids, Iowa 52401

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**INTRODUCTION**

LinkUSA Corporation welcomes the opportunity to comment on the proposals outlined by the Commission in the Notice of Proposed Rulemaking (FCC 93-496) (hereinafter "*Notice*") released December 2, 1993, in the above-captioned proceeding. As a wholesale provider of enhanced call processing services, LinkUSA focuses daily on the prevention and early detection of toll fraud. The company currently has patents pending on its real-time fraud monitoring system which is an integral part of the company's service offerings.

As a guiding principle, LinkUSA stresses, as does the Commission (§12), that toll fraud is theft. Once defined as such, the appropriate governmental role is to create policies which facilitate its prevention and, when theft occurs, to promulgate regulations which assist in the investigation of the crime and prosecution of the perpetrators. LinkUSA applauds the Commission's comprehensive approach to toll fraud in the *Notice*.

LinkUSA agrees that the ultimate goal of the Commission is a reduction in the incidence of toll fraud and the attendant dollar volume lost. In order to accomplish this, it is important for the Commission, through the rulemaking process, to attempt to create a market structure where all parties are motivated by self interest to combat toll fraud.

## **CARRIERS**

LinkUSA defines fraud as unauthorized network and equipment usage. The source of network authorization must be an end-user customer, the person that is billed for the calls. A carrier is contracted by a customer to carry calls from the customer to the terminating point. While the carrier cannot positively identify unauthorized use, there are general categories of call types and call volume levels which could be considered suspicious. LinkUSA agrees that the service provider or the carrier is in a good position to analyze call volumes for suspicious trends (where "suspicious" may include additional parameters as defined by the customer). In fact, many of the fraud protection services offered in the marketplace today are systems which monitor the network and analyze call characteristics.

LinkUSA agrees with the Commission that the above-mentioned services are in the public interest. These services are increasingly available throughout the marketplace. However, as a fraud monitoring service provider, LinkUSA knows that the creation of such a system requires intensive development. Many small carriers do not have the development capital to support the necessary human resources and hardware required. For this reason, LinkUSA disagrees with the proposal that all carriers should be required to offer even a basic fraud monitoring service. Responsibility should remain with the customer who wants these services to seek out the provider which offers the desired services, as long as they understand the risks.

As competition increasingly turns customer focus toward the quality of service in addition to its price, fraud services will be provided by more carriers. LinkUSA believes that the marketplace will control the availability of these services. When all consumers demand monitoring services, then those carriers which cannot or do not offer the

service at an acceptable price will go out of business. Hence, customer demand will force the carriers to act in their own self interest and to offer fraud monitoring services.

## **CUSTOMERS**

The customer is King! While this may appear trite, it is true regarding fraud control. Only the customer can define fraud, only the customer can control the CPE programming to reduce the possibility of fraud, and only the customer can choose the carrier offering fraud monitoring services which can provide an acceptable fraud risk at an acceptable price. Any attempt by the Commission to reduce the responsibility the customer should own to combat fraud reduces the incentive for the CPE owner to take all possible (rather than the liability-limiting minimal) measures to prevent toll fraud.

## **LIABILITY**

LinkUSA believes that the FCC should focus on the prevention of toll fraud and to assist in the investigation of toll fraud, but not to become involved in the litigation process. LinkUSA believes that the predetermination of liability reduces the incentive of any non-responsible party to do everything possible to combat toll fraud. Thus, the argument goes, definition of strict consumer liability reduces the incentive for the carrier to control fraud. However, as outlined above, the carrier historically has not been in a position to affect fraud liability since it lacks the power to control and define authorized network usage. As the Commission outlines, consumers are demanding a change and seeking service providers who will, for a price and some control of network usage, accept a shared liability. LinkUSA urges the Commission to promote this type of fraud service provision, rather than to pre-assign liability to the carrier.

Today, even if a carrier's analysis revealed some suspicious usage, ultimately only the customer can confirm that fraud has occurred and only the consumer can

authorize the carrier to discontinue that service. If the Commission adopts rules based on a carrier-liability for toll fraud, the effect is to require the carrier to control the customer's telecommunications affairs, and furthermore, to be the customer's fraud insurance company. Finally, this type of liability exposure will destabilize the financial position of the entire carrier industry – increasing costs for all telecommunications consumers. LinkUSA believes this is not in the public interest.

The current market trend is for carriers to offer network monitoring services, for which the customer is charged, in conjunction with a shared liability for fraud losses. Consumers who have chosen this type of service have determined that the cost of the service is worth the benefit in reduced fraud exposure. LinkUSA suggests that these arrangements are the best approach to toll fraud liability distribution. The consumers retain the right to decide what their risk/cost threshold is and the carrier recovers the cost for the services rendered and covers the actuarial cost for their increased fraud exposure.

LinkUSA believes any preassigned liability or even a post-fraud mediation process will destroy the ability of the market to reach a cooperative balance between the carrier and consumer; in fact, the relationship could become adversarial. Clearly, the tremendous costs of determining the distribution of the fraud losses merely compounds, rather than solves, the liability question.

LinkUSA suggests that tariff liability provisions should correspond to the services purchased by the consumer. If the consumer decides that they do not wish to purchase a fraud monitoring service; then the carrier should have no liability for unauthorized usage (fraud) through the consumers' equipment. The Commission's tentative conclusion (§24) that the carrier bears any responsibility for fraud monitoring in the absence of a fraud-monitoring service agreement with the consumer should be rejected.

## COOPERATION

In ¶ 24, the Commission suggested that the carrier effectively issue warnings to its consumers. It is possible, however, that some consumers do not understand the power they have to control their own fraud exposure. LinkUSA supports the Commission's proposal for a Federal Advisory committee to broaden the public education campaign and to strengthen law enforcement measures. In addition to the Federal Advisory Committee, the Commission should use the resources available to it through current industry associations such as the Communications Fraud Control Association. This is an association of end users and carriers which focuses on the issues associated with toll fraud including, its prevention through end user education and through the dissemination of information to security managers throughout the industry.

Many of the comments included in the Commission's notice deal with consumers who buy services from a carrier or equipment from a manufacturer without understanding the associated toll fraud possibilities and associated exposure. This parallels a former problem in the banking industry, in which customers would enter into loan agreements without understanding the terms of the agreement. Similar to the solution developed by the banking industry, LinkUSA suggests that the Commission require a "truth in buying telecommunications services/products" statement for all telecommunications service contracts. This statement would educate the consumer on the nature of the fraud risks associated with the services or the equipment they were considering purchasing.

LinkUSA further suggests that the Commission create "suggested standards" for fraud services. By standardizing a basic fraud service package, consumers can effectively compare costs of similar services between carriers without having to be experts in toll fraud. In addition, there could be standards for several enhanced tiers above the basic service. In economics, market interactions lead to optimal solutions,

assuming that the market players have perfect knowledge. This approach would allow the marketplace to operate with increased efficiency, protecting both the consumer and carrier.

To further enhance the relationship between manufacturers and consumers, LinkUSA supports the Commission's proposals for warnings and removal of fraud-risk-prone equipment from the market. In addition, LinkUSA suggests that CPE, especially PBX equipment, be sold with the default fraud control parameters set to the most conservative call processing standards. This would require the customer to consciously choose the types of calls that could be completed through the phone system.

#### **LIDB**

One of the industry-wide tolls that is used to control fraud in the calling-card industry is the Line Information Database (LIDB). All carriers which accept LEC line-number based calling cards are essentially required to use this service. LEC requests for originating and terminating information to enhance their fraud monitoring services raise several other competitive questions. LinkUSA believes that any option through which the LECs receive originating number information should be subject to the same restrictions for the LEC as the carrier is subject to on the distribution of Billing Name and Address (BNA) information. Just as the LEC is concerned that the carrier not use BNA to solicit new customers, so could calling pattern data provided by carriers be used by the LEC. This includes the provision that the LEC cannot use this information for any purpose other than fraud monitoring. In addition, LinkUSA believes that the carriers should be able to charge any LEC that wishes to receive the information, similar to the way the carriers are currently charged for receipt of BNA.

On a final note, LinkUSA suggests that the analysis of originating and terminating number combinations is not the exclusive domain of the LECs. LinkUSA has built these parameters into its own fraud monitoring system. In addition, much of this type of fraud related information is communicated throughout the industry via industry associations including, the Communications Fraud Control Association. In summary, LinkUSA does not see how limiting the LECs' liability serves as an incentive for them to maximize the effectiveness of LIDB as a fraud control tool. In fact, the apparent relationship is the reverse.

## **PERPETRATORS**

LinkUSA notices that the guilty party – the perpetrators, the thieves – are conspicuously absent in the discussions of toll fraud. Given that all parties agree that toll fraud is theft and a crime, LinkUSA urges the Commission to take all possible measures to assist in the investigations of these crimes.

In its role as the tariff review agency, the FCC has the unique ability to control the costs of the investigator's tools. Many of these tools are services offered by the LECs, including traps and traces, dialed number records, and assistance in investigation. The costs for these services vary widely across the local exchange carriers and are often too high for small carriers to take full advantage. LinkUSA urges the Commission to review fully the cost support for these services.

Another investigative tool which security managers across the industry need is the disclosure of non-published phone listings and call detail. This information could be provided on a confidential basis to security managers in the telecommunications industry thus, not violating the privacy rights of the end users.<sup>1</sup>

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<sup>1</sup>Indeed, the Electronic Communications Privacy Act of 1986 allows for non-governmental exchange of such information. However, many of the LECs continue to resist disclosure of the information.



## CONCLUSION

By issuing a Notice of Proposed Rulemaking on Policies and Rules concerning Toll Fraud, the Commission has highlighted the importance of toll fraud to the continued health of the telecommunications industry. The need for the telecommunications industry and its consumers to pull together to combat fraud is clear from the detailed information provided in the *Notice*. To be successful, the Commission must create an incentive structure within the industry which compels all to combat toll fraud.

A cooperative approach, or balanced incentive structure, precludes the preassignment of liability by the Commission. In order for efforts to combat fraud to be successful, both the carrier and the customer must be committed to reducing its exposure to fraud losses. LinkUSA submits that any broad limitation on the liability of the consumer is anti-fraud-control as well. LinkUSA believes that the consumer must evaluate his acceptable risk level and choose a carrier which offers the appropriate fraud monitoring service at an acceptable price.

The Commission has tentatively concluded that "private action can[not] resolve all toll fraud problems or that incentives to control fraud are [not] structured in the best possible way (§18)." However, the Commission also agrees that the presence of fraud monitoring services has increased dramatically over the past 18 months (§26). The fraud incidents outlined by the Commission in the *Notice* occurred before these services were introduced. LinkUSA suggests that these new services present opportunities for a cooperative effort to combat toll fraud and are too important to the industry to be dismantled by the Commission before they have the chance to fully bloom.

LinkUSA has made several suggestions which would enhance the cooperative approach already evolving in the industry. Market solutions assume that the consumers have perfect knowledge. In order to increase the knowledge base for consumers on toll fraud, LinkUSA has suggested several measures the Commission could adopt to educate and protect the consumer.

Respectfully submitted,  
LinkUSA Corporation

By: 

Steven J. Hogan  
President,  
LinkUSA Corporation  
230 Second Street S.E.  
Suite 400  
Cedar Rapids, Iowa 52401  
319) 363-7570

January 13, 1994

Certificate of Service

I, Ashley Waltmann, hereby certify that a copy of the foregoing Comments of LinkUSA was served by Federal Express this 13th day of January 1994 to the persons listed below.

(original + 7 copies)  
Office of the Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

(1 copy)  
FCC Reference Center  
Room 239  
1919 M Street, N.W.  
Washington, D.C. 20554

(1 copy)  
ITS, Inc.  
2100 M. Street NW  
Suite 140  
Washington, D.C. 20037

  
Ashley Waltmann

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